

**IN THE CIRCUIT COURT OF COLE COUNTY  
STATE OF MISSOURI**

<b>STATE OF MISSOURI, ex rel.</b>	)	
<b>JEREMIAH W. (JAY) NIXON</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.
	)	
<b>TIGER PAWS BOOSTER CLUB, INC.</b>	)	
Serve: Daniel Morrow, Registered Agent	)	
1300 Grandview Dr.	)	
Jefferson City, Missouri 65109	)	
	)	
<i>and</i>	)	
	)	
<b>RICHARD ALLEN NORRIS</b>	)	
D.O.B. 05-05-41	)	
S.S.N.	)	
Serve at: 5411 Scherr Drive	)	
Jefferson City, Missouri 65109	)	
	)	
<i>and</i>	)	
	)	
<b>ALEXANDRA SANDRA STEPHENS</b>	)	
D.O.B. 9-8-44	)	
S.S.N.	)	
Serve at: 5411 Scherr Drive	)	
Jefferson City, Missouri 65109	)	
	)	
Defendants.	)	

**PETITION FOR PRELIMINARY AND PERMANENT INJUNCTIONS, CIVIL  
PENALTIES AND OTHER RELIEF**

COMES NOW the State of Missouri as Plaintiff in this action, by and through Attorney General Jeremiah W. (Jay) Nixon and his assistants Stewart M. Freilich and Rikki Jones Wright, and states for its cause of action against Defendants:

## **Parties**

1. Jeremiah W. (Jay) Nixon is the duly elected Attorney General of the State of Missouri and brings this action in his official capacity pursuant to Chapter 407, RSMo<sup>1</sup>.

2. Defendant Tiger Paws Booster Club, Inc. (“Booster Club”) is registered with the Missouri Secretary of State as a Missouri Non Profit Corporation with its principal place of business located in Jefferson City, Missouri. The Booster Club’s registered agent is Daniel Morrow, 1300 Grandview Dr., Jefferson City, Missouri 65109. The Booster Club was administratively dissolved on December 17, 2004.

3. Defendant Richard Allen Norris, a/k/a Richard Graham, Gary Norris, William Craig Parry, Gregg Perry, Richard Arthur Smith, Richard Allan Morris, Richard A Norris, Richard Allan Norris, Richard Alle Norris, Greg Perry, Richard A Smith, Richard Christopher Stephens, is an individual, a resident of Missouri and an incorporator for the Booster Club.

4. Defendant Alexandra Sandra Stephens, a/k/a Alexander Gaebe, Ann Norris, Sandra Norris, Sandra Gaebe, Sandra Jean Stephens, Christi Norris, Sandra Jean Norris, is an individual, a resident of Missouri and the president of the Booster Club.

5. For purposes of this Petition, any references to the acts and practices of the Booster Club shall mean that such acts and practices are by and through the acts of Booster Club’s owners, officers, directors, employees, partners, or other agents.

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<sup>1</sup> All references, unless otherwise noted, are to Missouri Revised Statutes 2000.

6. This Court has subject matter jurisdiction over this action pursuant to section 407.100, which allows the Attorney General to seek injunctive relief, restitution and penalties in circuit court for violations of section 407.020.

7. Venue is proper in this Court pursuant to section 407.100.7, because the acts described below that are alleged to violate the Missouri Merchandising Practices Act occurred in Cole County, Missouri, which is also the principal place of business for the Booster Club and the place of residence for both Defendants Norris and Stephens.

### **THE MISSOURI MERCHANDISING PRACTICES ACT**

8. Section 407.020 provides, in pertinent part:

The act, use, or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in Section 407.453, in or from the State of Missouri, is declared to be an unlawful practice.

9. Section 407.100 provides:

1. Whenever it appears to the Attorney General that a person has engaged in, is engaging in, or is about to engage in any method, act, use, practice or solicitation, or any combination thereof, declared to be unlawful by this chapter, he may seek and obtain, in an action in a circuit court, an injunction prohibiting such person from continuing such methods, acts, uses, practices, or solicitations, or any combination thereof, or engaging therein, or doing anything in furtherance thereof.

2. In any action under subsection 1 of this section, and pursuant to the provisions of the Missouri Rules of Civil

Procedure, the attorney general may seek and obtain temporary restraining orders, preliminary injunctions, temporary receivers, and the sequestering of any funds or accounts if the court finds that funds or property may be hidden or removed from the state or that such orders or injunctions are otherwise necessary.

3. If the court finds that the person has engaged in, is engaging in, or is about to engage in any method, act, use, practice or solicitation, or any combination thereof, declared to be unlawful by this chapter, it may make such orders or judgments as may be necessary to prevent such person from employing or continuing to employ, or to prevent the recurrence of, any prohibited methods, acts, uses, practices or solicitations, or any combination thereof, declared to be unlawful by this chapter.

4. The court in its discretion, may enter an order of restitution, payable to the state, as may be necessary to restore to any person who has suffered any ascertainable loss, including but not limited to, any moneys or property, real or personal, which may have been acquired by means of any method, act, use, practice or solicitation, or any combination thereof, declared to be unlawful by this chapter. It shall be the duty of the attorney general to distribute such funds to those persons injured.

5. The court, in its discretion, may appoint a receiver to insure the conformance to any orders issued under subsection 3 of this section or to insure the payment of any damages ordered under subsection 4 of this section.

6. The court may award to the state a civil penalty of not more than one thousand dollars per violation; except that, if the person who would be liable for such penalty shows, by a preponderance of the evidence, that a violation resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error, no civil penalties shall be imposed.

7. Any action under this section may be brought in the county in which the defendant resides, where the violation alleged to have been committed occurred, or where the defendant has his principal place of business.

8. The attorney general is authorized to enter into consent judgments or consent injunctions with or without admissions of violations of this chapter. Violation of any such consent judgment or consent injunction shall be treated as a violation under section 407.110

10. "Advertisement" is defined by section 407.010(1) as "the attempt by publication, dissemination, solicitation, circulation, or any other means to induce, directly or indirectly, any person to enter into any obligation or acquire any title or interest in any merchandise."

11. "Merchandise" is defined by section 407.010(4) as "any objects, wares, goods, commodities, intangibles, real estate or services."

12. "Sale" is defined by section 407.010(6) as "any sale, lease, offer for sale or lease, or attempt to sell or lease merchandise for cash or credit."

13. "Trade or Commerce" is defined by section 407.010(7) as "the advertising, offering for sale, sale, or distribution, or any combination thereof, of any services and any property, tangible or intangible, real personal, or mixed and any other article, commodity, or thing of value wherever situated. The terms 'trade' and 'commerce' include any trade or commerce directly or indirectly affecting the people of this state."

14. Section 407.456.1 provides:

Except for charitable organizations which are exempted under subsection 2 of this section, no charitable organization shall solicit funds in this state, nor employ a professional fund-raiser to solicit funds in this state, for any charitable purpose unless it, and each professional fund-raiser employed by it, have filed all registrations and reports required by sections 407.450 to 407.478.

15. Section 407.462.1 provides in pertinent part:

No charitable organization shall solicit funds in this state, nor employ a professional fund-raiser to solicit funds in this state, for any charitable purpose, unless it has filed with the office of the attorney general an initial registration, which shall be sworn to under oath and shall be in the form and manner prescribed by the attorney general . . .

16. “Charitable organization” is defined by section 407.453(1) as “any person, as defined in section 407.010, who does business in this state or holds property in this state for any charitable purpose and who engages in the activity of soliciting funds or donations for, or purported to be for, any fraternal, benevolent, social, educational, alumni, historical or other charitable purpose”.

17. “Charitable purpose” is defined by section 407.453(2) as “any purpose which promotes, or purports to promote, directly or indirectly, the well-being of the public at large or any number of persons, whether such well-being is in general or limited to certain activities, endeavors or projects”.

18. “Solicitation” is defined by section 407.453(6) as “any request or appeal, either oral or written, or any endeavor to obtain, seek or plead for funds, property, financial

assistance or other thing of value, including the promise or grant of any money or property of any kind of value for a charitable purpose, but excluding: (a) Direct grants or allocation of funds received or solicited from any affiliated fund-raising organization by a member agency; and (b) Unsolicited contributions received from any individual donor, foundation, trust, governmental agency or other source, unless such contributions are received in conjunction with a solicitation drive.

### **STATEMENT OF FACTS**

19. Plaintiff hereby incorporates by reference all of the allegations contained in paragraphs 1 through 18 above as though fully set forth herein.

20. On or about November 12, 2003, Daniel Morrow and Defendant Norris submitted Articles of Incorporation of a Nonprofit Corporation to the Missouri Secretary of State on behalf of the Booster Club, wherein they stated that the corporate assets upon dissolution “will go to another non profit organization” and the purpose of the corporation is to “support sports at Lincoln University.”

21. From an exact date unknown, but at least since November 2003, Defendants Norris and Stephens have solicited donations on behalf of the Booster Club from Jefferson City area businesses and residents.

22. Defendants Norris and Stephens obtained donations to the Booster Club by soliciting membership donations and selling merchandise with the Lincoln University logo. When Defendants Norris and Stephens solicited donations, they told potential contributors

that their donations would be used to support the football program and/or other athletic programs at Lincoln University by purchasing equipment for the team.

23. Defendants Norris and Stephens have collected over \$5,000.00 in donations purportedly for the Booster Club.

24. At no time has the Booster Club been affiliated, recognized or endorsed by Lincoln University.

25. At no time has Lincoln University or any of its athletic programs received any money or equipment from the Booster Club.

26. Defendants Norris and Stephens have misappropriated donations made to the Booster Club for their personal use.

27. Pursuant to §§ 407.450 to 407.478, no charitable organization can solicit donations unless the organization is registered with the Missouri Attorney General's Office.

28. At no time has the Booster Club been registered with the Missouri Attorney General's Office.

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**MERCHANDISING PRACTICES ACT VIOLATIONS**

29. Defendants' conduct in soliciting donations from consumers under the pretext that the money would be used to benefit the Lincoln University football and/or other athletic programs constitutes a violation of § 407.020 in that Defendants have engaged in methods, acts, uses and practices of deception, fraud, false pretense, false promise, misrepresentation, unfair practice, and the concealment, suppression and omission of material facts.

30. Defendants' conduct in misappropriating donations made to the Booster Club for their personal use constitutes a violation of § 407.020 in that Defendants have engaged in methods, acts, uses and practices of deception, fraud, false pretense, false promise, misrepresentation, unfair practice, and the concealment, suppression and omission of material facts.

31. Defendants' conduct in soliciting donations as a charitable organization without being registered with the Missouri Attorney General's Office constitutes a violation of §§ 407.450 to 407.478.

32. These unfair and unlawful practices engaged in by Defendants have presented a risk of, and/or have caused, significant injury to consumers.

### **PRAYER FOR RELIEF**

**WHEREFORE**, the Attorney General prays this Court for the following relief:

1. An Order of this Court finding that Defendants have violated the provisions of § 407.020.

2. An Order of this Court finding that Defendants have violated the provisions of §§ 407.450 to 407.478 .

3. A Preliminary and Permanent Injunction issued pursuant to § 407.100 prohibiting and enjoining Defendants and their agents, servants, employees, representatives and other individuals acting at their direction or on their behalf, who have notice of the

Injunction, from violating § 407.020 through the use of any of the unlawful, unfair and deceptive acts and practices alleged herein.

4. A Preliminary and Permanent Injunction issued pursuant to § 407.100 prohibiting and enjoining Defendants and their agents, servants, employees, representatives and other individuals acting at their direction or on their behalf, who have notice of the Injunction, from violating §§ 407.450 to 407.478 .

5. An Order of this Court requiring Defendants, to provide full restitution to all consumers from whom Defendants have received monies who have been aggrieved by the use of any of the unlawful, unfair and deceptive acts and practices alleged herein.

6. An Order of this Court awarding the State a civil penalty from Defendants of One Thousand Dollars (\$1,000.00) per violation of § 407.020 that the Court finds to have occurred.

7. An Order of this Court ordering Defendants to pay to the State an amount of money equal to ten percent (10%) of the total restitution ordered against said Defendants, or such other amount as the Court deems fair and equitable.

8. An Order of this Court requiring Defendants to pay all court and investigative and prosecution costs of this case.

9. Any further relief the Court deems just and equitable in this action.

Respectfully submitted,

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